

**SOLICITOR**

TO: <b>Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>OCT 25 2007</b> <b>U.S. PATENT &amp; TRADEMARK OFFICE</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court EDVA, Norfolk Division on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. 2:07cv480	DATE FILED 10/19/07	U.S. DISTRICT COURT EDVA, U.S. Courthouse, Room 193-B, 600 Granby St., Norfolk, VA 23510
PLAINTIFF Production Automation, Inc.		DEFENDANT FKI Logistex North America
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,935.484 B2	8/30/05	Assignee: Production Automation Inc.
2		
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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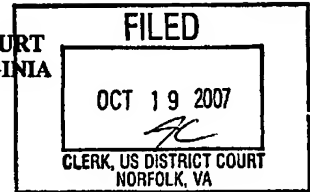
In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK FERNANDO GALINDO, Clerk	(BY) DEPUTY CLERK <i>Thay Shustack</i>	DATE
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Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION



PRODUCTION AUTOMATION, INC.

Plaintiff,

v.

FKI LOGISTEX NORTH AMERICA  
9301 Olive Boulevard  
St. Louis, Missouri 63132

Serve: Registered Agent  
CT Corporation  
4701 Cox Road  
Suite 301  
Glen Allen, VA 23060

Defendant.

CIVIL ACTION NO. 2:07cv480

JURY TRIAL DEMANDED

**COMPLAINT AND JURY DEMAND**

1. PRODUCTION AUTOMATION, INC. ("PAI") by and through its attorneys, hereby demands a jury trial and complains of Defendant, FKI LOGISTEX NORTH AMERICA ("FKI"), as follows:

**NATURE OF THE ACTION**

2. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.* Plaintiff, PAI, seeks to enjoin and obtain damages resulting from Defendant, FKI's unauthorized manufacture, use, sale, offer to sell and/or importation into the United States for subsequent use or sale of products that infringe the claims of United States Patent No. 6,935,484 (the "'484 patent"), entitled "Case Turning Apparatus and

Method for a Palletizer." A copy of the '484 patent is attached as Exhibit A. PAI seeks permanent injunctive relief to prevent FKI from continuing to infringe the '484 patent. In addition, PAI seeks a recovery of monetary damages resulting from FKI's past infringement of the '484 patent. PAI is the lawful assignee of all right, title and interest in and to the '484 patent, which was lawfully issued on August 30, 2005 in the name of O'Neal Wright Davis et al.

3. This action for patent infringement involves FKI's manufacture, use, sale, offer for sale, and/or importation into the United States of infringing paletizing machines.

4. PAI has been irreparably harmed by FKI's infringement of its patent rights. Moreover, FKI's unauthorized and infringing manufacture, use, sale, offer for sale and/or importation into the United States of the invention claimed in the '484 patent has threatened the value of PAI's intellectual property because FKI's conduct results in PAI's loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and/or importing the patented invention.

5. FKI's disregard for PAI's property rights has resulted in lost sales. Accordingly, unless and until FKI's continued acts of infringement are enjoined, PAI will suffer further irreparable harm for which there is no adequate remedy at law.

#### **THE PARTIES**

6. Production Automation, Inc. is a Alabama corporation organized and existing under the laws of Alabama and having its principal place of business at 2075 Exchange Street, Montgomery, Alabama, 36116.

7. FKI Logistex North America is a Delaware corporation organized and existing under the laws of Delaware and having its principal place of business at 9301 Olive Blvd., St. Louis, Missouri, 63132.

8. FKI markets and/or sells palletizing machines infringing PAI's intellectual property rights in the State of Virginia and throughout the United States. Information regarding FKI's products is available on its website at <http://www.fkilogistex.com>.

### **JURISDICTION AND VENUE**

9. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. Venue in this judicial district is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b).

### **COUNT I**

#### **Patent Infringement of United States Patent No. 6,935,484**

11. Paragraphs 1 through 10 are incorporated by reference as if fully restated herein.

12. FKI makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products that infringe directly and/or indirectly the palletizing machine and methods claimed in the '484 patent.

13. On information and belief, FKI manufactured and sold an infringing Series 940 Palletizer to Pepsi Bottling Group, Inc. ("Pepsi"), and this palletizer is currently in use at a Pepsi facility in Newport News, Virginia.

14. FKI infringes the claims of the '484 patent through the aforesaid acts, and will continue to do so unless enjoined by this Court. FKI's wrongful conduct has caused PAI to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and/or importing the patented inventions. PAI is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

15. PAI is entitled to recover damages adequate to compensate for the infringement pursuant to 35 U.S.C. § 284.

## **COUNT II**

### **Willful Infringement of United States Patent No. 6,935,484**

16. Paragraphs 1 through 14 are incorporated by reference as if fully restated herein.

17. FKI's infringement has been willful, deliberate and with knowledge of PAI's rights under the '484 patent, and unless the FKI is enjoined by this Court, such acts of willful infringement by the FKI will continue. PAI is without adequate remedy at law. PAI is entitled to recover damages adequate to compensate for the infringement of the '484 patent, as well as additional damages for willful infringement including increased damages pursuant to 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action pursuant to 35 U.S.C. § 285.

## **PRAYER FOR RELIEF**

WHEREFORE, PAI prays for judgment against FKI, granting PAI the following relief:

- A. That this Court adjudge and decree that the '484 patent is valid and enforceable against FKI.
- B. That this Court adjudge and decree that FKI has infringed and continues to infringe the claims of the '484 patent.
- C. That this Court adjudge and decree that FKI has willfully infringed and continues to willfully infringe the claims of the '484 patent.
- D. That this Court order an accounting of all damages sustained by PAI as the result of the acts of infringement by FKI;
- E. That this Court grant an injunction enjoining the aforesaid acts of infringement by

FKI, its officers, agents, servants, employees, subsidiaries and attorneys, and those acting in concert with it, including related individuals and entities, customers, representatives, OEMS, dealers, and distributors;

F. That this Court enter an award to PAI such damages as it shall prove against FKI that are adequate to compensate PAI for said infringements;

G. That this Court order an award to PAI enhanced damages of up to three times the amount of compensatory damages because of FKI's willful infringement as provided by 35 U.S.C. § 284;

H. That this Court render a finding that this case is "exceptional" and award to PAI its costs and reasonable attorneys' fees, as provided by 35 U.S.C. § 285; and,

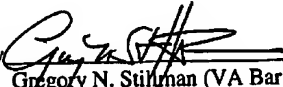
I. Grant to PAI such other, further, and different relief as may be just and proper.

**JURY DEMAND**

PAI demands a trial by jury of all matters to which it is entitled to trial by jury pursuant to Fed. R. Civ. P. 38.

This 19th day of October, 2007

PRODUCTION AUTOMATION, INC.

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